

SENATE BILL NO. 260

INTRODUCED BY D. MAHLUM, COCCHIARELLA, DOHERTY, GLASER, GRIMES, KITZENBERG,
LAWSON, LEHMAN, MASOLO, OLSON, A. PETERSON, RIPLEY, RYAN, SHEA, SMITH, TASH,
TESTER, TOOLE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING TRUSTEES OF A SCHOOL DISTRICT TO
ESTABLISH AND TEMPORARILY TRANSFER DISTRICT FUNDS INTO INDEPENDENT INVESTMENT
ACCOUNTS TO INCREASE SCHOOL BOARD CONTROL OVER INVESTMENTS; ESTABLISHING
GUIDELINES FOR DISTRICT EXPENDITURES FOR INVESTMENT ACCOUNTS; AUTHORIZING A DISTRICT
TO INVEST MONEY IN INVESTMENTS AUTHORIZED BY THE BOARD OF INVESTMENTS UNDER TITLE
17, CHAPTER 6, MCA; REQUIRING A DISTRICT TO COMPLY WITH THE REQUIREMENTS OF TITLE 17,
CHAPTER 6, PART 1, FOR DEPOSITS IN EXCESS OF THE AMOUNT INSURED BY THE FEDERAL DEPOSIT
INSURANCE CORPORATION OR THE NATIONAL CREDIT UNION ADMINISTRATION; REQUIRING A
DISTRICT TO PAY THE AUTOMATED CLEARINGHOUSE SYSTEM CHARGES FOR ALL TRANSFERS MADE
BY THE OFFICE OF PUBLIC INSTRUCTION; AMENDING SECTIONS ~~20-3-205, 20-9-212, 20-9-213,~~ AND
20-9-346, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Authorization for school district investment account.** (1) The trustees
of a school district may establish investment accounts and may temporarily transfer into the accounts all
or a portion of any of its budgeted or nonbudgeted funds. The trustees shall establish a separate account
for each fund from which transfers are made.

(2) Money transferred into investment accounts established under this section may be expended
from a subsidiary checking account under the conditions specified in subsection (3)(b)(i) through (3)(b)(iv).

(3) The district may either:

(a) establish and use the accounts as nonspending accounts to ensure that district funds remain
in an interest-bearing status until money is reverted to the budgeted or nonbudgeted fund of original
deposit as necessary for use by the county treasurer to pay claims against the district. The district shall
ensure that sufficient money is reverted to the district's budgeted and nonbudgeted funds maintained by

the county treasurer in sufficient time to pay all claims presented against the applicable funds of the district. The county treasurer shall accept all money that is reverted upon tendered transfer of the district.

(b) establish a subsidiary checking account for expenditures from the investment accounts. The district may write checks on OR PROVIDE ELECTRONIC PAYMENTS FROM the account if:

(i) the payments made from the accounts representing budgeted funds are in compliance with the budget adopted by the trustees;

~~(ii) the district provides an itemized report to the county treasurer on a monthly basis, including a statement of all payments made pursuant to this subsection, including the amounts of all checks written, vendors paid, and the applicable fund and corresponding investment account on which each check has been drawn;~~

~~(iii)~~(ii) the accounts are subject to the audit of district finances completed for compliance with 2-7-503 and 20-9-503; and

~~(iv)~~(iii) the district complies with all accounting system requirements required by the superintendent of public instruction.

(4) (A) A DISTRICT THAT CHOOSES TO ESTABLISH A SCHOOL DISTRICT INVESTMENT ACCOUNT DESCRIBED IN THIS SECTION SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE COUNTY TREASURER. THE AGREEMENT MUST:

(i) ESTABLISH SPECIFIC PROCEDURES AND REPORTING DATES TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (3);

(ii) BE BINDING UPON THE DISTRICT AND THE COUNTY TREASURER FOR A PERIOD OF NOT LESS THAN 5 YEARS;

(iii) BE SIGNED BY THE PRESIDING OFFICER OF THE BOARD OF TRUSTEES AND THE COUNTY TREASURER; AND

(iv) EXCEPT AS PROVIDED IN SUBSECTION (4)(B), COINCIDE WITH FISCAL YEARS BEGINNING ON JULY 1 AND ENDING ON JUNE 30.

(B) AN AGREEMENT THAT ESTABLISHES A SCHOOL DISTRICT INVESTMENT ACCOUNT FOR FISCAL YEAR 2002 MUST BE ENTERED INTO NO LATER THAN OCTOBER 1, 2001.

(C) THE DISTRICT AND THE COUNTY TREASURER MAY RENEW AN AGREEMENT, INCLUDING TERMS AND CONDITIONS ON WHICH THEY AGREE, PROVIDED THAT THE TERMS AND CONDITIONS COMPLY WITH THE PROVISIONS OF THIS SECTION.

(5) EXCEPT FOR ELECTRONIC TRANSFERS OF BASE AID AND STATE ADVANCES FOR COUNTY EQUALIZATION SENT DIRECTLY TO A PARTICIPATING DISTRICT'S INVESTMENT ACCOUNT UNDER 20-9-346(3), THE COUNTY TREASURER SHALL, AS REQUIRED BY LAW, CONTINUE TO COLLECT MONEY AND REPORT TO THE DISTRICTS THAT ELECT TO ESTABLISH A SCHOOL DISTRICT INVESTMENT ACCOUNT.

~~(4)~~(6) The trustees shall implement an accounting system for the investment account pursuant to rules adopted by the superintendent of public instruction. The rules for the accounting system must include but are not limited to:

(a) providing for the internal control of deposits into and transfers between a district's investment accounts and budgeted and nonbudgeted funds of the district;

(b) requiring that the principal and interest earned on the principal is allocated to the budgeted or nonbudgeted fund from which the deposit was originally made; and

(c) ensuring that other proper accounting principles are followed.

~~(5)~~(7) All interest earned on the district's general fund deposits must be allocated for district property tax reduction as required by 20-9-141.

~~(6)~~(8) IN MAKING DEPOSITS TO INVESTMENT ACCOUNTS UNDER THIS SECTION, A DISTRICT SHALL COMPLY WITH THE REQUIREMENTS OF TITLE 17, CHAPTER 6, PART 1, WITH RESPECT TO DEPOSITS IN EXCESS OF THE AMOUNT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR THE NATIONAL CREDIT UNION ADMINISTRATION, AS APPLICABLE.

~~(7)~~(9) A DISTRICT ESTABLISHING INVESTMENT ACCOUNTS UNDER THE SECTION SHALL PAY THE AUTOMATED CLEARINGHOUSE SYSTEM CHARGES FOR ALL AUTOMATED CLEARINGHOUSE TRANSFERS MADE BY THE OFFICE OF PUBLIC INSTRUCTION TO THE DISTRICT'S ACCOUNTS.

~~Section 2. Section 20-3-205, MCA, is amended to read:~~

~~"20-3-205. Powers and duties. The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:~~

~~(1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;~~

~~(2) administer and file the oaths of members of the boards of trustees of the districts in the county in accordance with the provisions of 20-3-307;~~

~~(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;~~

~~(4) act on each tuition and transportation obligation submitted in accordance with the provisions of 20-5-323 and 20-5-324;~~

~~(5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;~~

- 1 ~~———(6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;~~
2 ~~———(7) keep a transcript and reconcile the district boundaries of the county in accordance with the~~
3 ~~provisions of 20-6-103;~~
4 ~~———(8) fulfill all responsibilities assigned under the provisions of this title regulating the organization,~~
5 ~~alteration, or abandonment of districts;~~
6 ~~———(9) act on any unification proposition and, if approved, establish additional trustee nominating~~
7 ~~districts in accordance with 20-6-312 and 20-6-313;~~
8 ~~———(10) estimate the average number belonging (ANB) of an opening school in accordance with the~~
9 ~~provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;~~
10 ~~———(11) process and, when required, act on school isolation applications in accordance with the~~
11 ~~provisions of 20-9-302;~~
12 ~~———(12) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and~~
13 ~~budget amendments, and fulfill other responsibilities assigned under the provisions of this title regulating~~
14 ~~school budgeting systems;~~
15 ~~———(13) submit an annual financial report to the superintendent of public instruction in accordance with~~
16 ~~the provisions of 20-9-211;~~
17 ~~———(14) monthly, unless otherwise provided by law, order the county treasurer to apportion state~~
18 ~~money, county school money, and any other school money subject to apportionment in accordance with~~
19 ~~the provisions of 20-9-212, 20-9-335, 20-9-347, 20-10-145, or 20-10-146;~~
20 ~~———(15) act on any request to transfer average number belonging (ANB) in accordance with the~~
21 ~~provisions of 20-9-313(3);~~
22 ~~———(16) calculate the estimated budgeted general fund sources of revenue in accordance with the~~
23 ~~general fund revenue provisions of the general fund part of this title;~~
24 ~~———(17) compute the revenue and, subject to 15-10-420, compute the district and county levy~~
25 ~~requirements for each fund included in each district's final budget and report the computations to the board~~
26 ~~of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and~~
27 ~~other school funds parts of this title;~~
28 ~~———(18) file and forward bus driver certifications, transportation contracts, and state transportation~~
29 ~~reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;~~
30 ~~———(19) for districts that do not employ a district superintendent or principal, recommend library book~~

1 ~~and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;~~
2 ~~——— (20) notify the superintendent of public instruction of a textbook dealer's activities when required~~
3 ~~under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;~~
4 ~~——— (21) act on district requests to allocate federal money for indigent children for school food services~~
5 ~~in accordance with the provisions of 20-10-205;~~
6 ~~——— (22) perform any other duty prescribed from time to time by this title, any other act of the~~
7 ~~legislature, the policies of the board of public education, the policies of the board of regents relating to~~
8 ~~community college districts, or the rules of the superintendent of public instruction;~~
9 ~~——— (23) administer the oath of office to trustees without the receipt of pay for administering the oath;~~
10 ~~——— (24) keep a record of official acts, preserve all reports submitted to the superintendent under the~~
11 ~~provisions of this title, preserve all books and instructional equipment or supplies, keep all documents~~
12 ~~applicable to the administration of the office, and surrender all records, books, supplies, and equipment~~
13 ~~to the next superintendent;~~
14 ~~——— (25) within 90 days after the close of the school fiscal year, publish an annual report in the county~~
15 ~~newspaper stating the following financial information for the school fiscal year just ended for each district~~
16 ~~of the county:~~
17 ~~——— (a) the total of the cash balances of all funds maintained by the district at the beginning of the~~
18 ~~year;~~
19 ~~——— (b) the total receipts that were realized in each fund maintained by the district;~~
20 ~~——— (c) the total expenditures that were made from each fund maintained by the district; and~~
21 ~~——— (d) the total of the cash balances of all funds maintained by the district at the end of the school~~
22 ~~fiscal year; and~~
23 ~~——— (26) hold meetings for the members of the trustees from time to time at which matters for the~~
24 ~~good of the districts must be discussed."~~

25

26 ~~——— **Section 3.** Section 20-9-212, MCA, is amended to read:~~

27 ~~——— **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:~~

28 ~~——— (1) must receive and shall hold all school money subject to apportionment and keep a separate~~
29 ~~accounting of its apportionment to the several districts that are entitled to a portion of the money~~
30 ~~according to the apportionments ordered by the county superintendent or by the superintendent of public~~

1 ~~instruction, ACCORDING TO THE APPORTIONMENTS ORDERED BY THE COUNTY SUPERINTENDENT OR THE SUPERINTENDENT~~
2 ~~OF PUBLIC INSTRUCTION, within 3 working days of receipt. A separate accounting must be maintained for~~
3 ~~each county fund supported by a countywide levy for a specific, authorized purpose, including:~~
4 ~~—— (a) the basic county tax for elementary equalization;~~
5 ~~—— (b) the basic county tax for high school equalization;~~
6 ~~—— (c) the county tax in support of the transportation schedules;~~
7 ~~—— (d) the county tax in support of the elementary and high school district retirement obligations; and~~
8 ~~—— (e) any other county tax for schools, including the community colleges, that may be authorized~~
9 ~~by law and levied by the county commissioners.~~
10 ~~—— (2) whenever requested, shall notify the county superintendent, the trustees of each district, and~~
11 ~~the superintendent of public instruction of the amount of county school money on deposit in each of the~~
12 ~~funds enumerated in subsection (1) and the amount of any other school money subject to apportionment~~
13 ~~and apportion the county and other school money to the districts in accordance with the apportionment~~
14 ~~ordered by the county superintendent or the superintendent of public instruction, IN ACCORDANCE WITH THE~~
15 ~~APPORTIONMENT ORDERED BY THE COUNTY SUPERINTENDENT OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION, within~~
16 ~~3 working days of receipt.~~
17 ~~—— (3) shall keep a separate accounting of the daily receipts, expenditures, and daily cash balances~~
18 ~~for each fund;~~
19 ~~—— (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or~~
20 ~~district school money;~~
21 ~~—— (5) must receive all revenue collected by and for each district and shall deposit these receipts in~~
22 ~~the fund designated by law or by the district if a fund is not designated by law. Interest and penalties on~~
23 ~~delinquent school taxes must be credited to the same fund and district for which the original taxes were~~
24 ~~levied.~~
25 ~~—— (6) shall send all revenue received for a joint district, part of which is situated in the county, to~~
26 ~~the county treasurer designated as the custodian of the revenue, no later than December 15 of each year~~
27 ~~and every 3 months after that date until the end of the school fiscal year;~~
28 ~~—— (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of~~
29 ~~tax and revenue anticipation notes as provided in Title 7, chapter 6, part 11;~~
30 ~~—— (8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when~~

~~there is insufficient money available in all funds of the district to make payment of the warrant.~~

~~Redemption of registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.~~

~~——— (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days of the direction; based on instructions provided by the district. Once instructions are provided by the trustees, the county treasurer shall follow the district instructions regarding funds included in the directions until otherwise instructed by the district.~~

~~——— (10) each month, shall give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue received, and the cash balance;~~

~~——— (11) shall remit promptly to the state treasurer receipts for the county tax for a vocational-technical program within a unit of the university system when levied by the board of county commissioners under the provisions of 20-25-439;~~

~~——— (12) shall invest the money received from the basic county taxes for elementary and high school equalization, the county levy in support of the elementary and high school district retirement obligations, and the county levy in support of the transportation schedules within 3 working days of receipt. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and credited proportionately, calculated on the basis of a daily average balance and must be deposited and credited proportionately at least once each month in the funds established to account for the taxes received for the purposes specified in subsections (1)(a) through (1)(d).~~

~~——— (13) shall remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned and excluding any amount required for high school out-of-county tuition under the provisions of 20-9-334, in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."~~

Section 2. Section 20-9-213, MCA, is amended to read:

"20-9-213. Duties of trustees. The trustees of each district have the authority to transact all fiscal

1 business and execute all contracts in the name of the district. A person other than the trustees acting as
2 a governing board may not expend money of the district. In conducting the fiscal business of the district,
3 the trustees shall:

4 (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school
5 money for each fund and account maintained by the district in accordance with generally accepted
6 accounting principles and the rules prescribed by the superintendent of public instruction. The record of
7 the accounting must be open to public inspection at any meeting of the trustees.

8 (2) authorize all expenditures of district money and cause warrants or checks, as applicable, to
9 be issued for the payment of lawful obligations;

10 (3) issue warrants or checks, as applicable, on any budgeted fund in anticipation of budgeted
11 revenue, except that the expenditures may not exceed the amount budgeted for the fund;

12 (4) invest any money of the district, whenever in the judgment of the trustees the investment
13 would be advantageous to the district, ~~by~~ either by directing the county treasurer to invest any money of
14 the district or by directly investing the money of the district in eligible securities, as identified in 7-6-202,
15 in savings or time deposits in a state or national bank, building or loan association, savings and loan
16 association, or credit union insured by the FDIC or NCUA located in the state, or in a repurchase
17 agreement that meets the criteria provided for in 7-6-213. All interest collected on the deposits or
18 investments must be credited to the fund from which the money was withdrawn, except that interest
19 earned on account of the investment of money realized from the sale of bonds must be credited to the
20 debt service fund or the building fund, at the discretion of the board of trustees. The placement of the
21 investment by the county treasurer is not subject to ratable distribution laws and must be done in
22 accordance with the directive from the board of trustees. A district may invest money under the state
23 unified investment program established in Title 17, chapter 6, or in a unified investment program with the
24 county treasurer, with other school districts, or with any other political subdivision if the unified investment
25 program is limited to investments that meet the requirements of this subsection (4), including those
26 investments authorized by the board of investments under Title 17, chapter 6. A school district that enters
27 into a unified investment program with another school district or political subdivision other than the state
28 shall do so under the auspices of and by complying with the provisions governing interlocal cooperative
29 agreements authorized under Title 7, chapter 11, and educational cooperative agreements authorized under
30 Title 20, chapter 9, part 7. A school district ~~shall~~ either shall contract for investment services with any

1 company ~~licensed to do business in Montana under~~ complying with the provisions of Title 30, chapter 10,
2 or shall contract with the state board of investments for investment services.

3 (5) cause the district to record each transaction in the appropriate account before the accounts
4 are closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all
5 money and property for which the district is accountable;

6 (6) report annually to the county superintendent, not later than August 15, the financial activities
7 of each fund maintained by the district during the last-completed school fiscal year, on the forms
8 prescribed and furnished by the superintendent of public instruction. Annual fiscal reports for joint school
9 districts must be submitted not later than September 1 to the county superintendent of each county in
10 which part of the joint district is situated.

11 (7) whenever requested, report any other fiscal activities to the county superintendent,
12 superintendent of public instruction, or board of public education;

13 (8) cause the accounting records of the district to be audited as required by 2-7-503; and

14 (9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of
15 the district."

16
17 **Section 3.** Section 20-9-346, MCA, is amended to read:

18 **"20-9-346. Duties of superintendent of public instruction for state and county equalization aid**
19 **distribution.** The superintendent of public instruction shall administer the distribution of the state and
20 county equalization aid by:

21 (1) establishing the annual entitlement of each district and county to state and county equalization
22 aid, based on the data reported in the retirement, general fund, and debt service fund budgets for each
23 district that have been adopted for the current school fiscal year and verified by the superintendent of
24 public instruction;

25 (2) for the purposes of state advances and reimbursements for school facilities, limiting the
26 distribution to no more than the amount appropriated for the school fiscal year to the districts that are
27 eligible under the provisions of 20-9-366 through 20-9-371 by:

28 (a) determining the debt service payment obligation in each district for debt service on bonds that
29 were sold as provided in 20-9-370(3) that qualify for a state advance or reimbursement for school facilities
30 under the provisions of 20-9-366 through 20-9-369 and 20-9-370;

(b) based on the limitation of state equalization aid appropriated for debt service purposes, determining the state advance for school facilities and the proportionate share of state reimbursement for school facilities that each eligible district must receive for the school fiscal year; and

(c) distributing that amount by May 31 of each school fiscal year to each eligible district for reducing the property tax for the debt service fund for the ensuing school fiscal year;

(3) distributing by electronic transfer the BASE aid and state advances for county equalization, for each district or county entitled to the aid, to the county treasurer of the respective county for county equalization or to the county treasurer of the county where the district is located or to the investment account identified by the applicable district for BASE aid, in accordance with the distribution ordered by the board of public education;

(4) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for BASE aid of the districts of the state;

(5) reporting to the board of public education the estimated amount that will be available for state equalization aid; and

(6) reporting to the office of budget and program planning, as provided in 17-7-111:

(a) the figures and data available concerning distributions of state and county equalization aid during the preceding 2 school fiscal years;

(b) the amount of state equalization aid then available;

(c) the apportionment made of the available money but not yet distributed;

(d) the latest estimate of accruals of money available for state equalization aid; and

(e) the amount of state advances and repayment for county equalization."

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 2, and the provisions of Title 20, chapter 9, part 2, apply to [section 1].

NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective on passage and approval and applies to the transfer of funds on or after [the effective date of this act].

- END -